No. 539

IN THE

Supreme Court of the United States

OCTOBER TERM, 1941.

IN THE MATTER

—of—

MANHATTAN STEAM BAKERY, INC.,
Bankrupt.

IRVING J. WHITE, appearing specially,
Petitioner,

IRVING STEINMAN, as Trustee, NATHAN PEARLSTEIN and MANHATTAN BAKERIES, INC.,
Respondents.

PETITIONER'S REPLY BRIEF.

Inaccuracies in respondent's brief require this terse reply.

RESPONDENT'S BRIEF, POINT II.

(A) Possession of the RES was *not* in the Bankruptcy Court at the time of petitioner's special appearance, yet his assertion of *existing* jurisdiction in the State Court in a *pending* action is, anomalously, made the basis of an implied *consent* to Bankruptcy jurisdiction.

(B) *AFTER* petitioner's application to withdraw (Record, p. 27) because the RES had passed out of the Bankruptcy Court, the claim (now styled a counterclaim) was asserted (p. 29).

RESPONDENT'S POINT III.

(p. 8) The question as to the burden of proof of want of notice was, in fact, argued in petitioner's briefs, both before the Referee and the District Court, as well as the Circuit Court of Appeals, which held (erroneously as petitioner here again asserts) that the burden was on him and not on the respondent who seeks to benefit as an attaching creditor "without notice".

(Neither Nathan Pearlstein nor Manhattan Bakeries, Inc., appeared or filed briefs in the Circuit Court of Appeals.)

Dated, September 12th, 1941.

Respectfully submitted,

JOHN P. McGRATH,
Counsel for Petitioner,
appearing specially.